DOCKET NO. SHIX-CN20001US (STNX01-20001) **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	:	Luzhou Xu, et al.
Serial No.	:	10/500,548
Filed	:	July 1, 2004
For	:	RAKE RECEIVER WITH INDIVIDUAL FINGER COMPENSATOR(S)
Group No.	:	2611
Examiner	:	Leon Flores
Confirmation No.	:	5116

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal.

STATUS OF THE CLAIMS

Claims 1-7 and 9-11 are pending. Claims 1-7 and 9-11 stand rejected.

REJECTIONS

Claims 1, 6-7 and 9-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,608,858 to *Sih, et al.*, (hereinafter, "Sih"), in view of U.S. Patent No. 6,888,878 to *Prysby, et al.*, (hereinafter, "Prysby").

Claims 2 and 3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,608,858 to *Sih, et al.*, (hereinafter, "Sih") and U.S. Patent No. 6,888,878 to *Prysby, et al.*, (hereinafter, "Prysby"), as applied to Claim 1, and in further view of U.S. Patent No. 6,363,102 to *Ling, et al.*, (hereinafter "Ling").

Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,608,858 to *Sih, et al.*, (hereinafter, "Sih"), U.S. Patent No. 6,888,878 to *Prysby, et al.*, (hereinafter, "Prysby"), and U.S. Patent No. 6,363,102 to *Ling, et al.*, (hereinafter "Ling"), as applied to Claim 2, and further in view of U.S. Publication No. 2002/0015438 to *Ishizu, et al.*, (hereinafter "Ishizu").

Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,608,858 to *Sih, et al.*, (hereinafter, "Sih"), U.S. Patent No. 6,888,878 to *Prysby, et al.*, (hereinafter, "Prysby"), U.S. Patent No. 6,363,102 to *Ling, et al.*, (hereinafter "Ling") and U.S. Publication No. 2002/0015438 to *Ishizu, et al.*, (hereinafter "Ishizu"), as applied to Claim 4, and in further view of U.S. Patent No. 6,154,443 to *Huang, et al.*, (hereinafter "Huang").

REMARKS

The final Office Action takes the position that the combinations of *Sih*, *Prysby*, *Ling*, *Ishizu* and *Huang* render obvious the claims of the instant application. However, the Office Action has failed to provide a combination that teaches or suggests each and every feature recited in the claims of the instant application which means that the third criterion for a *prima facie* case rejection has not been met. Further, the Office Action has failed to put forth any arguments or any articulated reasons as to how any deficiency (missing element) could be solved in a predictable manner through combination with any other references.

For example, Claim 1 of the instant application recites a "Rake receiver for receiving information symbols, comprising at least two fingers and a combiner coupled to said fingers, wherein each of the at least two fingers comprises a finger compensator that compensates for frequency shift at the symbol level." The device, in accordance with the claims of the instant application, provides a rake receiver that compensates for frequency shift at the symbol level.

The Office Action concedes that *Sih* does not disclose "wherein each of the at least two fingers comprises a finger compensator that compensates for frequency shift at the symbol level." (Final Office Action dated June 30, 2008, page 9). The Office Action argues that *Prysby* (Figure 1, elements 101 and 103) provides this necessary disclosure and that *Prysby* discloses "a plurality of RAKE fingers that provide time and phase compensation for frequency shift at the symbol level." Applicant respectfully disagrees.

Prysby relates to a method and apparatus for signal combining within a communication system. (*Prysby*, Abstract). *Prysby* teaches that compensation is performed for time and phase correction. However, there is no disclosure regarding compensation for frequency shift. The Office Action states that "one skilled in the art would recognize that frequency is related to phase." (Final Office Action dated June 30, 2008, page 9). Phase is position of a point in time (instant) on a waveform cycle. Frequency shift is a change in the frequency of a signal. The teaching of phase correction is not the teaching of frequency shift compensation. The Office Action provides no citation to support any conclusion that frequency shift compensation is equivalent to time and phase correction. The Office Action merely makes a conclusory statement that *Prysby*, as a whole, provides the necessary disclosure because "frequency is related to phase."[1]

Furthermore, the Applicants respectfully submit that the Office Action has not provided a proper teaching, suggestion or motivation for the various combinations. In response, the Office Action only refers to various cases. The Office Action fails to point to a teaching in any passage(s) of the cited references that provide a teaching, suggestion or motivation to combine the references in the asserted combinations.

1 In addition, no portion(s) of the remaining cited references have been identified as teaching or otherwise disclosing this element.

As a result of the foregoing, the Applicant asserts all pending Claims are in condition for allowance, and respectfully request allowance of the Claims. The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK CARTER, P.C.

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Robert D. McCutcheon
Registration No. 38,717

P.O. Box 802432
Dallas, Texas 75380
(972) 628-3632 (direct dial)
(972) 628-3600 (main number)
(972) 628-3616 (fax)
E-mail: *rmccutcheon@munckcarter.com*